

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
FILED

JAN 20 2015

David J. Bradley, Clerk of Court

STATE OF TEXAS, *et al.*

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants

Case No. 1:14-cv-254

MOTION FOR LEAVE OF COURT TO FILE
AMICUS BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION BY JOE ARPAIO AS SHERIFF OF MARICOPA COUNTY

Movant Joe Arpaio, elected Sheriff of Maricopa County, Arizona, ("Sheriff Arpaio") respectfully requests leave to participate as an *amicus curiae* and to file a brief in support of the Plaintiffs' Motion for Preliminary Injunction and causes of action for judgment. The proposed brief is submitted with this motion. Counsel for proposed *amicus curiae* requested counsel for Plaintiffs and Defendants to consent to this motion via e-mail sent on January 13, 2015. Defendants take no position on this motion, while Plaintiffs have not responded.

I. INTEREST OF AMICUS CURIAE AND REASONS FOR BRIEF

The Defendants have presented as their Exhibit #1 the memorandum opinion and decision in Sheriff Arpaio's similar lawsuit. Because the Defendants' Opposition relies significantly upon the decision of Judge Beryl A. Howell in Washington, D.C. in Sheriff Arpaio's case there, this Court now would lack a proper and full briefing of the issues without learning of the position of the Plaintiffs in that case. The citations of the Defendants to Sheriff

Arpaio's case would not provide a balanced or complete perspective.

Defendants here extensively cite to and rely upon a similar lawsuit filed by Sheriff Arpaio and a decision rendered in that court case – although that decision is on appeal in the U.S. Court of Appeals for the District of Columbia Circuit. (“DC Circuit”). Because Defendants here cite from that precedent to support Defendants’ Opposition to Plaintiffs’ Motion for Preliminary Injunction in this case, the relevance and importance of his knowledge and involvement in this issue is conceded.

Sheriff Arpaio sued in the United States District Court for the District of Columbia (“DC District Court”), Civil Action No. 1:14-cv-01966, President Barack Obama (“President Obama”); Secretary of Homeland Security Jeh Johnson; and Director of the U.S. Citizenship and Immigration Service (“USCIS”) Leon Rodriguez to challenge the Defendants’ executive action amnesty for illegal aliens.

Arpaio v. Obama necessarily – by the Defendants’ timetable, not Sheriff Arpaio’s nor the Plaintiffs’ actions – has been rushed through briefing and a hearing on an accelerated basis without discovery or development of facts relating to questions such as standing.

Therefore, it would be especially helpful for this Court to understand both points of view on citations here to *Arpaio v. Obama*. Sheriff Arpaio and counsel always expected the issues to be decided mainly on appeal, not in the D.C. District Court.

In sum, the importance of *Arpaio v. Obama*, which Defendants raised, makes it compelling for this Court to consider the fatally flawed nature of the D.C. District Court’s order. This amicus brief is being filed now in part because the decision in *Arpaio v. Obama* did not come until December 23, 2014 and Defendants then cited to it significantly in this case here.

Furthermore, the State of Arizona is one of the Plaintiffs in this case. *Amicus Curiae* Sheriff Arpaio is the elected Sheriff of Maricopa County, Arizona, one of the largest Sheriff's offices in the United States. Maricopa County is the most populated County in the State of Arizona with 4,009,412 citizens.¹ The County holds more than sixty percent (60%) of all of the population of entire State of Arizona. Sheriff Arpaio's Office effectively is nearly all of the State of Arizona in terms of law enforcement. Maricopa County is the fourth most populated County in the United States by most reports. If Maricopa County by itself were a State, the County would be larger by population than twenty-four (24)² of the States within the United States of America and larger than Puerto Rico and more than five times larger than the entire District of Columbia.

Sheriff Arpaio suffers direct economic harm from the Defendants' executive action amnesty for illegal aliens (citizens belonging to a foreign country). On June 15, 2012, Defendants launched their DACA program. As a result, from February 1, 2014, through December 17, 2014, the financial harm from illegal aliens to the Office of the Sheriff of Maricopa County, Arizona was at least \$9,293,619.96 consisting of the costs of holding illegal aliens in the Sheriff's jails, for those inmates flagged with INS "detainers." These costs of jail confinement are but one financial impact, easily quantified.

¹ "State & County Quick Facts," Maricopa County, Arizona, U.S. Census Bureau, <http://quickfacts.census.gov/qfd/states/04/04013.html>

² "State Population by Rank, 2013", InfoPlease, <http://www.infoplease.com/us/states/population-by-rank.html>

II. PROPOSED AMICUS CURIAE'S BRIEF WILL BE USEFUL TO THE COURT

In his accompanying brief, proposed *Amicus Curiae* supplements Plaintiffs' Motion for Preliminary Injunction by drawing on his unique knowledge and experiences with litigation of these issues and with local law enforcement practices and effective policing.

Sheriff Joe Arpaio of Maricopa, Arizona, hereby respectfully requests leave of court in the Court's discretion to file an *Amicus Curiae* brief in support of the Plaintiffs' Motion for Preliminary Injunction.

Unique among all other parties in the nation and involving first-hand knowledge exclusively available to Sheriff Arpaio and his legal team alone, the Amicus Curiae can inform and advise the Court in detail where exactly the Defendants' arguments miss the mark as to what is actually at stake in the issues to be decided by this Court.

Having litigated on this same issue against the Defendants with the same Defendants' counsel, Amicus Curiae Sheriff Arpaio can ensure that the Court is properly informed on the key issues that may very well be pivotal to the Court's decision and the ultimate resolution on appeal to the U.S. Supreme Court.

A constitutional republic that is governed by laws rather than men and the rule of law even apart from any immigration issues is of supreme importance to the nation and its continued existence as the most successful democracy (constitutional republic) in human history, Amicus Curiae's counsel argued in the D.C. District Court on December 23, 2014, that this is not primarily a case about immigration about following the rule of law and U.S. Constitution.

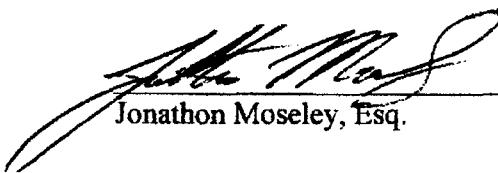
III. CONCLUSION

Proposed *amicus curiae* respectfully requests that this Court grant this motion, allow him to participate as *amici curiae*, and accept for filing the brief submitted with this motion.

Dated: January 16, 2015

Respectfully submitted,

Larry Klayman, Esq.
Washington, D.C. Bar No. 334581
Freedom Watch, Inc.
2020 Pennsylvania Avenue N.W., Suite 345
Washington, D.C. 20006
(310) 595-0800
leklayman@gmail.com
Of Counsel
(*Pro Hac Vice Application Pending*)

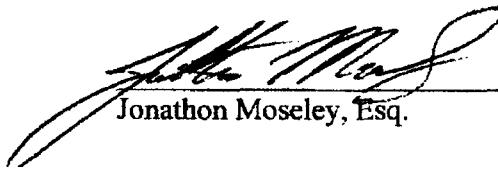


Jonathon Moseley, Esq.

Virginia State Bar No. 41058
Freedom Watch, Inc.
2020 Pennsylvania Avenue N.W., Suite 345
Washington, D.C. 20006
(310) 595-0800
leklayman@gmail.com
Attorney for Plaintiff
Pro Hac Vice Approved

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing motion and proposed brief will be delivered electronically on January 16, 2015, to counsel for Plaintiffs and Defendants through the District's Electronic Case Filing system.



Jonathon Moseley, Esq.